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The situation of democracy and human rights in Haiti

Letter dated 22 November 1999 from the Secretary-General addressed to the President of the General Assembly

In my reports to the General Assembly on the situation of democracy and human rights in Haiti and to the Security Council on the United Nations Civilian Police Mission in Haiti (MIPONUH), the need to continue to assist the Haitian people in their goal of attaining development and democracy after the end of the mandates of the International Civilian Mission in Haiti (MICIVIH) and MIPONUH was underlined. A viable transition to other forms of assistance to Haiti is required to consolidate the gains achieved thus far by both missions.

In this context, and at the request of Member States, I dispatched a needs assessment mission to Haiti, from 11 to 15 October 1999, to make recommendations on the continuation of the tasks of MICIVIH and MIPONUH in the future. The report of the needs assessment mission is attached to the present letter (see annex).

The nature of the recommendations of the needs assessment mission involves a dual programme of political support and technical assistance in the justice, human rights and police sectors. The implementation of these recommendations would require resources estimated at approximately $24 million, of which $10 million would need to be funded from the regular budget and $14 million from voluntary contributions, the latter in respect of the technical assistance component of the programme.

I am also attaching the letter, dated 8 November 1999, from the President of Haiti, René Préval, requesting continued United Nations assistance upon the expiration of the mandates of MIPONUH and MICIVIH (see appendix).

I should be grateful if you would bring the present letter as well as the aforementioned documents to the attention of, and for consideration by, the members of the General Assembly.

(*Signed*) Kofi A. **Annan**

99-35614 (E) 231199 231199

Annex

Report on a needs assessment mission to Haiti, 11 to 15 October 1999

I. General overview

1. The end of the mandates of the United Nations Civilian Police Mission in Haiti (MIPONUH) and the joint United Nations/Organization of American States International Civilian Mission in Haiti (MICIVIH) on 30 November and 31 December 1999, respectively, is taking place in a context marked by mounting security concerns, political instability and institutional fragility, raising questions about the sustainability of the democratic transition in Haiti.

2. The protracted political crisis has weakened the institutions of governance. The Parliament, declared invalid by President René Préval on 11 January 1999, remains in limbo. The new Government and provisional electoral council, established following a political agreement with a small section of the opposition in March of this year, do not enjoy full constitutional legitimacy. The judicial branch of power has not yet been able to assert itself as an independent and functional authority. The disagreements between political factions of the erstwhile governing coalition over policy and the control of power have been heightened by the importance of the issues at stake during the forthcoming elections. An upsurge in common crime and incidents of political violence have contributed to a serious deterioration of the security situation. The institutional consolidation of the new police has been hampered by the lack of resources and *matériel*, organizational weaknesses and efforts to gain political control of the force. Alleged criminal activity and drug trafficking within the police ranks are further weakening the force's effectiveness.

II. Proposal for a new mission

3. In order to get a first-hand evaluation of the situation, a needs assessment mission to Haiti took place from 11 to 15 October 1999. The mission was fielded in order to make recommendations on the continuation of the tasks of MIPONUH and MICIVIH, in accordance with the request by the Security Council in resolution 1212 (1998) of 25 November 1998 and subsequent to the observations made in my reports A/53/950 of 10 May 1999 and S/1999/908 of 24 August 1999, as well as in Economic and Social Council resolution 1999/11 of 27 July 1999. The mission was led by the Department of Political Affairs and involved the heads of the two missions and officials of the Department of Peacekeeping Operations and the United Nations Development Programme (UNDP), as well as national experts from Canada, France and the United States of America. The group of Friends of the Secretary-General on Haiti (Argentina, Canada, Chile, France, the United States, and Venezuela) provided valuable guidance and assistance.

4. The mission consulted closely with the Government of Haiti and met with representatives of the United Nations system as well as other international and bilateral donors to learn of their activities. A thorough review of the country's assistance needs in the areas of police, justice and human rights was undertaken, with reference also to Haiti's national development plans and priorities. The mission then examined how these needs could best be addressed in the context of a new United Nations mission, to replace MICIVIH and MIPONUH.

5. MICIVIH and MIPONUH, as well as other multilateral and bilateral assistance programmes, have helped put in place, through institutional development activities and capacity-building work, some of the essential building blocks of the rule of law. It is expected that the continued United Nations presence in Haiti, through the establishment of the new mission, will consolidate the gains achieved by MICIVIH and MIPONUH, while allowing a coordinated approach to improving the climate of respect for democracy, good governance and human rights in an integrated manner.

6. The recommendations of the mission therefore focus on (a) core activities to strengthen and build the capacity of institutions, (b) training and development of human resources, and (c) the reform of democratic processes. The mission's relatively short-term objectives will be fitted into a longer-term framework and perspective. This will ensure complementarity and sustainability of actions, also fully taking into account the request made by the Economic and Social Council at its most recent session, which may result in a longer-term plan for Haiti's social, economic and institutional development.

7. The legislative and presidential elections that will be held in 2000 will undoubtedly dominate the political climate in Haiti. Since UNDP is providing technical support to the Provisional Electoral Council and is offering a coordination framework for financial and operational support from the international community, no specific activities are envisaged in the electoral domain. Within its mandate, the follow-on mission will contribute to those efforts with the objective of ensuring a free and fair electoral process.

III. Assessing the needs: justice, human rights and the police

8. It is envisaged that a new United Nations mission in Haiti would continue to provide technical and other support in response to the request of the Haitian authorities for assistance in the strengthening of institutions and civil society. The new mission would consolidate the gains achieved in the areas of police, justice and human rights. These three "pillars", on which the new mission would rest, are mutually reinforcing and complementary. Without progress in the area of justice, the institutional consolidation of the Haitian National Police will suffer. Without capacity-building and training, strengthening the state institutions responsible for ensuring respect for human rights will be difficult. Improving the quality of justice rendered will help curb the endemic violations of due process and improve the performance of the police in the area of law and order. While the mission is proposing short-term objectives, these are nevertheless key in a volatile political situation.

9. Effective implementation of the mandate of the mission in all three areas will require the deployment of personnel in the capital of Port-au-Prince and in the departments throughout the country. If fundamental reform of the country's justice sector is to take place, judicial reform efforts must include the countryside, where vigilante actions and summary justice are prevalent. The capacity of the Haitian National Police to respond appropriately outside the Port-au-Prince area is limited by a general lack of manpower, equipment, training and organization. It is also of the utmost importance that human rights monitoring, promotion and advocacy are conducted in the rural areas where 60 per cent of Haiti's population lives.

A. Justice

10. The shortcomings and systemic weaknesses that plague the functioning of the judicial system are most apparent in the areas of respect for judicial procedures and the preparation of cases for trial, where they constitute serious infringements of the right to individual liberty and of due process. As noted above, they also constitute an increasingly serious obstacle to the performance of the police in the area of law and order.

11. The international community's continued assistance to the reform of the judicial system will only be brought to a successful conclusion if it enjoys the strong commitment of the Haitian authorities as well as support from civil society. Given its narrow mandate and limited time-frame, the mission's activities will be complementary to other multilateral and bilateral programmes, in particular those carried out by the funds and programmes and the specialized agencies of the United Nations system, so as to ensure a smooth transition and continuity after the end of the mission.

Main objectives

12. The activities of the proposed mission regarding the functioning of the judicial system would have the following main objectives:

(a) Reinforcement of the leadership role of the Ministry of Justice and Public Security and its subsidiary organs (the Magistrates School, the future National Commission for the Reform of Law and Justice, the judicial inspectorate and the working groups) in the judicial reform process;

(b) Strengthening of the independence of the judiciary, with priority given to newly graduated magistrates;

(c) Strengthening of criminal procedure mechanisms to reduce the percentage of detainees in pre-trial detention and to reinforce the observance of judicial guarantees in criminal proceedings, with particular focus on improving the capacity to carry out efficient criminal investigations;

(d) Strengthening of the Directorate of the Penitentiary Administration and the administration of penitentiaries.

Plan of action

13. The plan of action of the mission regarding the judicial system would have the following plan of action:

(a) To assist the Ministry of Justice and Public Security in areas such as the organization of criminal hearings, the improvement of the functioning of criminal justice and the case tracking system and facilitating broader access to justice and legal assistance;

(b) To assist in the planning of the programme of work of the subsidiary organs of the Ministry of Justice and Public Security;

(c) To assist the Ministry of Justice and Public Service in the drafting of ministerial instructions, to facilitate (i) the implementation of the criminal law in force concerning the enforcement of judicial decisions by the relevant public servants, in particular in the offices of the public prosecutor; (ii) the establishment of more expedient procedures for minor offences; and (iii) the organization of criminal hearings in order to safeguard the right of the accused to due process and the rights of victims of crimes and abuses of power;

(d) To give special emphasis to the revision of the code of criminal procedure to ensure conformity with the Constitution and international human rights treaties. Main objectives will be to introduce criminal mediation, simplify the work of roving justices of the peace, implement an expedient system of adjudication of simple cases, establish specialized tribunals and offices of the public prosecutor for complex cases and promote better coordination between the judiciary and judicial police;

(e) To provide technical assistance to the judicial inspectorate to improve the administration of the criminal justice system;

(f) In cooperation with the Magistrates School, to provide newly graduated magistrates, in particular in the criminal field, with basic education, continued training and mentoring programmes in the various tribunals and offices of the public prosecutor, both in the capital and in the departments;

(g) To provide joint training, with a view to reinforcing cooperation, to the judiciary and the police in four jurisdictions, to be replicated throughout the country;

(h) To provide mentoring to strengthen the case-tracking system and the judiciary police in the various tribunals and offices of the public prosecutor, both in the capital and in the departments;

(i) To provide assistance to the Directorate of the Penitentiary Administration in both the efficient management of prisons and the implementation of internal regulations to increase the application of international standards, in particular by providing training and mentor programmes of legal assistants and prison clerks to improve the case tracking system;

(j) To provide the Haitian National Police Inspector General's team in charge of prison issues with continued training.

Proposed activities

14. The programme of proposed activities of the mission regarding the system of justice can best be achieved by providing technical advisers, trainers and mentors in the above-mentioned areas in order to build national capacity. The activities would be carried out in Port-au-Prince as well as in the departments. It is envisaged that 37 United Nations personnel would be required to carry out the programme of work.

B. Human rights

15. Building on the achievements of MICIVIH's activities in the field of human rights is a key part of the proposed mission. MICIVIH currently has responsibility for providing institutional assistance (with particular reference to the police, judiciary, the penal system, the Ombudsman's Office and civil society organizations), supporting the promotion and protection of human rights and verifying observance of individual rights, fundamental freedoms and due process requirements. It has also assisted in developing a body of documents, studies and data on key institutions and human rights issues. These activities will continue, with some adjustments, in the light of a new integrated mandate as well as stated preferences by the Government of Haiti.

Main objectives

16. In the field of human rights, the mission would have the following objectives:

(a) Building local capacity (non-governmental organizations, civil society);

(b) Building institutional capacity (Office of the Ombudsman, Inspector-General, Haitian National Police, Parliamentary Committee);

(c) Providing human rights training (police, judiciary, prisons, Office of the Ombudsman);

(d) Ensuring respect for human rights by State agencies;

(e) Strengthening the values of a democratic culture;

(f) Promoting and advocating human rights.

Plan of action

17. The plan of action in the field of human rights would involve the following activities:

(a) To monitor human rights conduct of agents of the State (police, judiciary, prisons);

(b) To provide diagnostic monitoring on the functioning of institutions and to make recommendations for adjustments where necessary;

(c) To provide theoretical and practical training on human rights in: monitoring; reporting; and the use of international mechanisms/recourse/instruments for civil society organizations/State institutions (Office of the Ombudsman/Ministry of Justice);

(d) To provide training on administrative and management practices to strengthen internal structures (Office of the Ombudsman/civil society);

(e) To increase outreach of the Office of the Ombudsman by establishing a presence outside Port-au-Prince.

Proposed activities

18. The programme of proposed activities in the field of human rights can best be achieved by providing: (a) mentors to help reinforce the Office of the Ombudsman, (b) capacity-building experts for human rights organizations, and (c) advisers who promote and inform on human rights, as well as advisers who provide training. The activities would be carried out in Port-au-Prince as well as in the departments. It is envisaged that 33 United Nations advisers would be required to carry out the programme of work.

C. Police

19. The four-year-old Haitian National Police represents the first civilian, national security force in Haiti's 200-year history. It has made great strides in its organizational development and now institutionally recognizes the need for the protection of human rights. Much remains to be done, however, to enable this progress to take root and to complete the evolution to a professional civilian police service. Although this is a long-term project, the mission may guide the process within the established time-frame. Indeed, assisting the Police in discharging its security role will be of critical importance in the coming year because Haitians will face a national election for their Parliament in the spring and a presidential election in the fall. There is a unique opportunity to meet specific development needs of the Haitian National Police in collaboration with bilateral donors already on the ground with the aim of maximizing the resources available from a variety of sectors outside and under the United Nations umbrella.

20. The proposed programme of activities is designed to assist with furthering the objectives of the strategic development plan of the Haitian National Police for the period from 1999 to 2003 and to complement, not compete, with existing bilateral programmes. It will build upon the successes of previous missions and other United Nations activities and will address areas of need where measurable progress can be achieved within the duration of the mandate.

Main objectives

21. The mission would have the following objectives regarding the police:

(a) Increasing the efficiency of the service provided to the Haitian people;

(b) Reinforcing and organizing the command structure, management and control of the Haitian National Police;

(c) Increasing the motivation and enhancing the professional development of police officers and increasing the internal cohesion of the police force;

(d) Creating a synergy and developing dynamic partnerships at the national and regional levels.

Plan of action

22. The plan of action with regard to the police would involve the following activities:

(a) Improving the relationship between the police and civil society through training and professional mentoring of the police and by enhancing civil society's understanding of the role of the police in a democracy. Police training will focus on developing the concept that the police must not be separate but form part of civil society and fostering a climate of non-tolerance for human rights abuse. Civil society will be assisted in elaborating and expressing its expectations towards the Haitian National Police;

(b) Increasing the effectiveness of the Judicial Police by increasing the skills in the field of criminal investigation and by facilitating greater coordination with the broader justice sector;

(c) Assisting in the improvement of the functions of administration and logistics by increasing the understanding and application of sound management principles and practices. Increasing the capacity of the Haitian National Police in the areas of material control, finance and human resource management through mentoring by management professionals with specific competence to address the identified needs;

(d) Supporting the integrity of police officers by promoting accountability and transparency of processes and by strengthening the internal investigation office;

(e) Promoting better coordination within the Haitian National Police by increased linking of training activities at the Academy with the needs of policemen in the field and by enhancing communication between the directorates and the departments.

Proposed activities

23. The programme of proposed activities regarding the police can best be accomplished by placing mentors in accompanying roles within the police at the managerial level. These positions are identified in the strategic plan of the Haitian National Police. Allowing for the existing presence of 20 bilateral advisers, 36 United Nations advisers would be required. These advisers would be divided between Departmental Directorates, Port-au-Prince Commissariats, the Judicial Police branch and the administrative branch.

IV. Office of the representative of the Secretary-General

24. It is envisaged that the successor mission would be headed by a representative of the Secretary-General. He would have the overall supervision of the activities of the mission and be responsible for the political coordination with the Government of Haiti as well as for assisting in coordinating the support of bilateral donors. The representative would be assisted by the United Nations resident coordinator, as his deputy, who would help coordinate the activities of the United Nations system in Haiti. As in the past, this responsibility would further the complementarity of assistance provided by the United Nations system in Haiti.

25. The representative of the Secretary-General would be assisted in his policy-making and coordinating functions by a small cabinet, which would also handle legal issues, press/information and the monitoring of the objectives of the mission. A programme coordinator would have substantive supervision over the three "pillars" of activities.

26. An administrative unit would need to backstop the mission with logistics, transportation and communications as well as medical and human resources to ensure effectiveness. In the current climate of crime and violence in Haiti, which might intensify further in view of the forthcoming elections, the provision of adequate security is crucial to ensure the safety of mission staff, in the capital and particularly in the departments.

V. Conclusion

27. It should be added that the needs assessment mission was unanimous in its conclusions. It agreed that the new mission should pursue a coordinated and integrated approach to enhance the effectiveness of governance, to improve the climate of respect for human rights and to reinforce the institutional effectiveness of the police and the judiciary. In this way the international community would continue to support the efforts of the Haitian Government and of the people of Haiti in their difficult quest to construct a democratic society.

Appendix

[Original: French]

Letter dated 8 November 1999 from the President of Haiti addressed to the Secretary-General

I have the honour to refer to the imminent expiration of the mandate of the United Nations Civilian Police Mission in Haiti (MIPONUH), established pursuant to Security Council resolution 1212 (1998) of 25 November 1998 to, *inter alia*, assist in the professionalization of the Haitian National Police through mentoring and by strengthening the capability of the central directorate of the police force to manage aid provided to it from bilateral and multilateral sources.

In this connection, I have pleasure in thanking the United Nations for deploying the Mission, which has made a valuable contribution to enhancing police performance and the country's stability. However, in order to build on the work already done, the international community's support in this area will continue to be necessary.

Accordingly, the Republic of Haiti would like an institutional support mission to be set up, whose members would be neither uniformed nor armed, to support the democratization process and assist the Government of Haiti in strengthening the judiciary and professionalizing the Haitian National Police.

(*Signed*) René **Préval**